

## § 2.59, Nt.

or advertising of the services. If the applicant submits substitute specimen(s), the applicant must:

(1) For an amendment to allege use under § 2.76, verify by affidavit or declaration under § 2.20 that the applicant used the substitute specimen(s) in commerce prior to filing the amendment to allege use.

(2) For a statement of use under § 2.88, verify by affidavit or declaration under § 2.20 that the applicant used the substitute specimen(s) in commerce either prior to filing the statement of use or prior to the expiration of the deadline for filing the statement of use.

[64 FR 48921, Sept. 8, 1999]

EFFECTIVE DATE NOTE: At 80 FR 33183, June 11, 2015, § 2.59 was revised, effective July 11, 2015. For the convenience of the user, the revised text is set forth as follows:

### § 2.59 Filing substitute specimen(s).

(a) In an application under section 1(a) of the Act, the applicant may submit substitute specimens of the mark as used on or in connection with the goods or in the sale or advertising of the services, or as used to indicate membership in the collective organization. The applicant must submit a verified statement that the substitute specimen was in use in commerce at least as early as the filing date of the application. The verified statement is not required if the specimen is a duplicate or facsimile of a specimen already of record in the application.

(b) In an application under section 1(b) of the Act, after filing either an amendment to allege use under § 2.76 or a statement of use under § 2.88, the applicant may submit substitute specimens of the mark as used on or in connection with the goods or in the sale or advertising of the services, or as used to indicate membership in the collective organization. If the applicant submits substitute specimen(s), the applicant must:

(1) For an amendment to allege use under § 2.76, submit a verified statement that the substitute specimen(s) was in use in commerce prior to filing the amendment to allege use.

(2) For a statement of use under § 2.88, submit a verified statement that the substitute specimen(s) was in use in commerce either prior to filing the statement of use or prior to the expiration of the deadline for filing the statement of use.

## 37 CFR Ch. I (7–1–15 Edition)

### EXAMINATION OF APPLICATION AND ACTION BY APPLICANTS

AUTHORITY: Secs. 2.61 to 2.69 also issued under sec. 12, 60 Stat. 432; 15 U.S.C. 1062.

### § 2.61 Action by examiner.

(a) Applications for registration, including amendments to allege use under section 1(c) of the Act, and statements of use under section 1(d) of the Act, will be examined and, if the applicant is found not entitled to registration for any reason, applicant will be notified and advised of the reasons therefor and of any formal requirements or objections.

(b) The Office may require the applicant to furnish such information, exhibits, affidavits or declarations, and such additional specimens as may be reasonably necessary to the proper examination of the application.

(c) Whenever it shall be found that two or more parties whose interests are in conflict are represented by the same attorney, each party and also the attorney shall be notified of this fact.

[30 FR 13193, Oct. 16, 1965, as amended at 37 FR 2880, Feb. 9, 1972; 54 FR 37592, Sept. 11, 1989; 77 FR 30207, May 22, 2012]

### § 2.62 Procedure for filing response.

(a) *Deadline.* The applicant's response to an Office action must be received within six months from the date of issuance.

(b) *Signature.* The response must be signed by the applicant, someone with legal authority to bind the applicant (e.g., a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter, in accordance with the requirements of § 2.193(e)(2).

(c) *Form.* Responses must be filed through TEAS, transmitted by facsimile, mailed, or delivered by hand, as set out in § 2.190(a). Responses sent via email will not be accorded a date of receipt.

[73 FR 67769, Nov. 17, 2008, as amended at 74 FR 54908, Oct. 26, 2009; 80 FR 2310, Jan. 16, 2015]